United Nations A/HRC/25/NI/11

General Assembly

Distr.: General
28 February 2014

Original: English

Human Rights Council
Twenty-fifth session
Agenda item 6
Universal Periodic Review

Information presented by the Irish Human Rights Commission*

Note by the Secretariat

The Secretariat of the Human Rights Council hereby transmits the communication submitted by the Irish Human Rights Commission,** reproduced below in accordance with rule 7(b) of the rules of procedures described in the annex to Council resolution 5/1, according to which participation of national human rights institutions is to be based on arrangements and practices agreed upon by the Commission on Human Rights, including resolution 2005/74 of 20 April 2005.

* National human rights institution with "A"-status accreditation from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

** Reproduced in the annex as received, in the language of submission only.

GE.14-11860

1411860

Please recycle

Annex

[English only]

Introduction

1. The Irish Human Rights Commission (IHRC) is Ireland's National Human Rights Institution (NHRI), set up by the Irish Government under the Human Rights Commission Acts 2000 and 2001.[1] The IHRC has a statutory remit under the Human Rights Commission Act 2000 to endeavour to ensure that the human rights of persons in the State are fully realised and protected in the law and policy of the State. The IHRC enjoys 'A' Status Accreditation with the International Coordinating Committee of NHRIs.

2. In 2010, the IHRC undertook a review of Ireland's human rights record in advance of the State's first periodic report to the Human Rights Council under the Universal Periodic Review ("UPR") process. In preparation of its shadow report, the IHRC engaged in consultations with Civil Society in Ireland including at regional briefings outside of Dublin to support stakeholders to make their reports. The IHRC made a submission for the Twelfth Session of the Working Group on the Universal Periodic Review, when Ireland was examined in March 2011. This follow-up submission marks the mid-term review of Ireland's four and a half year UPR cycle. It aims at providing a snapshot on the State's progress in implementing UPR recommendations under a number of priority themes.

3. Later in 2014 it is expected that the IHRC will formally merge with its sister body the Equality Authority to form the new Irish Human Rights and Equality Commission. This is a new body being established with the purpose of strengthening efforts to promote and protect human rights and equality in Ireland. The publication of legislation to formally establish the body is expected in early 2014.

4. The IHRC is pleased to have the opportunity to provide this short submission to the Council. As a member of the Council, the State has continuously stressed its commitment to the promotion and protection of human rights.

Issues

a) **Issue 1 – Ratification by the State and Incorporation of International Human Rights Conventions into Domestic Law (Recommendations 106.1 - 106.6, 106.9- 106.11)**

- The State has not yet ratified a number of the instruments it undertook to ratify in 2011.
- The State has sought to introduce one limited constitutional amendment, to provide for enhanced children's rights, in respect to Article 19 of the Convention on the Rights of the Child (presently under legal challenge).
- The State has established a Constitutional Convention but not formally referred the matter of the incorporation of ratified treaty rights into domestic law for its consideration.

[1] For detailed information on the work of the IHRC, *see* www.ihrc.ie.

b) Issue 2 – Human Rights and Equality Infrastructure (Recommendations 106.7, 106.8, 106.12, 106.13)

- In May 2012, the State published the General Scheme of the Irish Human Rights and Equality Commission Bill 2012 and the follow-up draft Bill is expected imminently.
- In the interim, both the Equality Authority and Irish Human Rights Commission continue as separate legal entities under the interim auspices of Irish Human Rights and Equality Commission (IHREC) designate.
- In December 2013, the IHREC designate was provided with an enhanced cumulative budget and permission to recruit additional staff.
- The State needs to ensure that in the context of the merger of the Labour Court, Labour Relations Commission, Employment Appeals Tribunal, National Employment Rights Authority and Equality Tribunal that the protection and complaints resolution process, under the Equal Status Acts 2000-2011, is not weakened or made any less accessible.

c) Issue 3 – Human Rights Education and Training (Recommendations 106.14, 107.24)

- The IHRC continues to provide free human rights education and training to limited groups of civil and public civil servants and there remains a pressing need for human rights education and training for Civil Servants to be more fully resourced by the State.

d) Issue 4 – Equality (Recommendations 106.20, 106.21, 107.14, 107.57, 107.59)

- Article 41.2 of the Irish Constitution continues to perpetuate stereotypical attitudes towards the role of women in Irish society and is a matter of priority and a specified timeframe for its replacement or amendment needs to be put in place.[2]
- The State still needs to expand the definition of equality in Irish law. In particular, Article 40.1 of the Constitution should be amended to guarantee equality to all and to proscribe discrimination (direct or indirect) in any area of law and practice on non-exhaustive grounds.[3]

e) Issue 5 – Travellers (Recommendations 106.30-106.33, 107.31-107.33)

- The State has not recognised Travellers as an ethnic minority.
- There is a lack of adequate, good quality accommodation provided to Travellers by Local Authorities, which in part arises from the non-recognition of Travellers as an ethnic group, insofar as their traditional nomadism is not recognised.[4]

---

[2] It is noted that this Article is under consideration by the Constitutional Convention.

[3] See https://www.constitution.ie/AttachmentDownload.ashx?mid=cee1b183-0b79-e211-a5a0-005056a32ee4 Article 40.1 provides "All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function." *See also* IHRC Submission to the Irish Government in preparation of Ireland's Sixth Periodic Report to the UN CEDAW Committee, 2008, p. 5 www.ihrc.ie/download/pdf/submission_cedaw.pdf; IHRC Submission to the UN Committee on the Elimination of Discrimination Against Women in respect of Ireland's Combined Fourth and Fifth Periodic Reports under the Convention on the Elimination of all Forms of Discrimination Against Women, 2005, p. 17. www.ihrc.ie/download/pdf/submission_cedaw.pdf

[4] IHRC Submission for the Twelfth Session of the Working Group on the Universal Periodic Review: Ireland, March 2011, para 31. Available at: http://www.ihrc.ie/download/pdf/ihrc_report_to_un_universal_periodic_review_march_2011.pdf

- Since 2000, there have only been 47 units of transient accommodation provided for nomadic Travellers across the country, with no new unit being provided since 2008.[5]At the same time Travellers are subjected to draconian laws that allow for their summary removal from unofficial sites,[6] the results being that Travellers ability to maintain a nomadic or semi-nomadic way of life is diminished.[7]

f) Issue 6 - National Action Plans (Recommendations 107.25, 107.26)

- The State has not introduced a National Action Plan for Human Rights to mainstream human rights into Irish law, policy and practice. It is noted that it is proposed in the context of the IHREC Bill that there will be a positive duty on public bodies to take account of human rights and equality.
- There is also no progress in developing a National Action Plan for Human Rights Education and Training in line with the World Programme on Human Rights Education.
- An updated National Action Plan Against Racism (2005 – 2008) has yet to be produced.

g) Issue 7 – Prisoners (Recommendations 106.36 – 106.48)

- The State has taken steps to improve prisoner conditions including the basic training of Prison Officers in human rights in conjunction with the IHRC. However it has yet to fully end the practice of 'slopping-out'.
- Although the Inspector of Prisons' mandate has been expanded, the State has yet to take steps towards the ratification of OPCAT and establishment or designation of a National Preventative Mechanism that meets the Paris Principles requirements of independence, expertise and resources to ensure oversight of places of detention in Ireland.
- There is still a failure to fully separate sentenced and remand prisoners.
- An independent Prisoner Ombudsman is still to be established to investigate individual complaints made by prisoners in relation to their treatment while in prison.

h) Issue 8 - Migrant Workers and Protection of Minority Rights (Recommendations 106.22, 106.34, 54, 60, 61, 107.13, 108.1)

- The State has not taken steps to promote the participation of vulnerable and disadvantaged groups in the workforce, such as migrant workers, including by reforming the work permit system to incorporate freedom to change employers and providing temporary work permits to asylum seekers.
- The State has not introduced stand-alone legislation, to combat Human Trafficking, that defines forced or compulsory labour and servitude as a criminal offence in its own right, and in addition confers a specific mandate on the National Employment Rights Agency to include the detection and prosecution of such offences within their inspection and regulatory powers.

---

[5] Figures published by the Department of Environment, Community and Local Government, 2013. See, http://www.environ.ie/en/Publications/StatisticsandRegularPublications/HousingStatistics/

[6] See for instance, section 10, Housing (Miscellaneous Provisions) Act, 1992 (as amended), and section 24 of the Housing (Miscellaneous Provisions) Act, 2002.

[7] See IHRC Submission to the UN Human Rights Committee on Ireland's Fourth Periodic Report under the ICCPR – List of Issues Stage, August 2013.

- To combat Trafficking, victims of forced or compulsory labour and servitude should have the opportunity to seek redress through civil law, whatever their legal status in the State, and be provided with appropriate protection by the State.[8]

i) Issue 9 - Violence Against Women (Recommendations 106.49 -53, 107.36-40)

- The State has not ratified the Council of Europe Convention on Preventing and Combating violence against Women and Domestic Violence and in this context has not provided adequate resources for domestic violence services

j) Issue 10- Abortion (Recommendations 108.5, 108.6, 108.7, 108.8, 108.9)

- The Oireachtas (Parliament) passed the Protection of Life During Pregnancy Act, in July 2013, and the Act was commenced in January 2014. This legislation was in response to the judgment of the European Court of Human Rights in A, B, and C v Ireland.[9] The matter of execution of this judgment is still under consideration by the Committee of Ministers of the Council of Europe.

---

[8] IHRC Follow Up Report on the State Involvement with Magdalen Laundries, June 2013, at p. 127.
[9] *A, B and C v Ireland*, Grand Chamber, Judgment 16 December 2010.